STATE OF MICHIGAN

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

OFFICE OF FINANCIAL AND INSURANCE REGULATION

Before the Commissioner of Financial and Insurance Regulation

In the matter of

XXXXX
Petitioner
v **File No. 122930-001**
Priority Health
Respondent

Issued and entered
this 22nd day of December 2011
by R. Kevin Clinton
Commissioner

ORDER

I. PROCEDURAL BACKGROUND

On August 18, 2011, XXXXX, authorized representative of her husband XXXXX (the Petitioner), filed a request for external review with the Commissioner of Financial and Insurance Regulation under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq*. The Petitioner receives health care benefits under a *Certificate of Coverage* (the certificate) and related schedule of copayments and deductibles issued by Priority Health, a health maintenance organization.

The Commissioner notified Priority Health of the external review request. On August 19, 2011, Priority Health furnished the information used in making its final adverse determination. After a preliminary review of the material submitted, the Commissioner accepted the request for external review on August 25, 2011. Priority Health provided additional information on August 29, 2011.

The issue in this external review can be decided by an analysis of the contract that defines the Petitioner's health care benefits. The Commissioner reviews contractual issues under MCL 500.1911(7). This matter does not require a medical opinion from an independent review organization.

II. FACTUAL BACKGROUND

On February 8, 2011, the Petitioner underwent left hip replacement surgery and received physical therapy following the surgery. On April 9, 2011, he dislocated his hip and required additional physical therapy. On May 17, 2011, the Petitioner required surgical revision of the hip replacement after again dislocating his hip. On June 25, 2011, he dislocated his hip yet again and was awaiting his third hip replacement surgery which will require additional physical therapy following surgery.

Petitioner requested additional physical therapy beyond the benefit plan maximum of 30 visits per contract year. Priority Health denied the request. The Petitioner appealed the denial through Priority Health's internal grievance process. Priority Health maintained its denial and issued its final adverse determination letter dated June 22, 2011.

III. ISSUE

Did Priority Health properly deny the Petitioner coverage for additional physical therapy under the terms of the certificate?

IV. ANALYSIS

Petitioner's Argument

In a letter to OFIR dated August 14, 2011, the Petitioner explained that his repeated hip problems, all requiring physical therapy, present extenuating circumstances that should warrant an exception to the maximum 30 physical therapy visits per contract year. He believes Priority Health should provide coverage for an additional five to ten visits for the 2011 contract year.

Respondent's Argument

In its June 22, 2011, final adverse determination Priority Health noted that the Petitioner's benefit plan limits physical therapy to 30 visits per plan year. Priority Health explained its denial of coverage of physical therapy visits beyond the maximum of 30 allowed:

> Visits in excess of the benefit maximum are not a covered benefit as outlined in the Certificate of Coverage, Schedule of Copayments and Deductibles and Priority Health Medical Policy No. 91318-R8 for Rehabilitative Medicine Services . . .

Commissioner's Review

The certificate, Schedule of Copayments and Deductibles, and medical policy provides coverage for a maximum of 30 visits per contract year. (The Petitioner's contract year runs from January 1 to December 31.)

The certificate, page 18, includes the following provision relative to rehabilitative medicine services:

> The rehabilitative medicine benefits are categorized in the Schedule of Copayments and Deductibles. The maximum number of visits per Contract Year for each rehabilitative medicine category is shown in the Schedule of Copayments and Deductibles. The visit maximums apply even when continued care is Medically/Clinically Necessary beyond the benefit maximum.

The referenced Schedule of Copayments and Deductibles indicates that the physical and occupational therapy benefit is limited to "a combined benefit maximum of 30 visits per Contract Year." Nothing in the certificate, schedule or medical policy compels Priority Health to provide coverage for visits beyond the benefit maximum.

The Commissioner finds that Priority Health's denial is consistent with the terms and conditions of the certificate. As Priority Health notes, Petitioner's physical therapy benefits will renew in January 2012 and Petitioner may request coverage from Priority Health for therapy received in 2012.

V. ORDER

The Commissioner upholds Priority Health's final adverse determination of June 22, 2011. Priority Health is not required to cover the Petitioner's additional physical therapy visits.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than 60 days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.

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R. Kevin Clinton
Commissioner